IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.34 OF 2005
IN
EXECUTION APPLICATION NO.183 OF 2004
IN
SUMMARY SUIT NO.1510 OF 2002

M/s..G.M.Breweries Ltd. ..Plaintiffs.

V/s.

M/s.Siddhivinayak Builders & Anr...Defendants.

Mr. O.A.Das for Plaintiffs/applicant.

Mr.Dipesh Gaonkar i/b Divya Shah & Assoc. for defendant No.2.

CORAM: A.M.KHANWILKAR,J

DATE : AUGUST 22, 2005.

P.C. :

1. Heard counsel for the parties.

2. No reply is filed inspite of sufficient opportunity is granted to the defendants. In that sense, assertions made in the affidavit in support of the chamber summons have remained uncontroverted. Even so, I am inclined to grant relief only in terms of prayer clause (a), at this stage.

3. In so far as prayer clause (b) is concerned, in my opinion, the order which I proposes to pass will meet the interest of justice.

4. Accordingly, this chamber summons is made absolute in terms of prayer clause (a). Instead of issuing direction to impound passport of defendant No.2 and partners of defendant No.1 as prayed for, it is ordered that the defendant No.2 and proprietor of defendant No.1 Mr.Nitin Mehta, who is personally present in the court, shall not leave India without prior permission of this court. In the cause title of the plaint, it is noted that defendant No.1 is a partnership firm. Mr. Nitin Mehta, who has appeared in person, to instruct to his advocate states that defendant No.1 is not a partnership firm, but a proprietary concern of which, he is the proprietor. On this basis, the above direction is passed.

5. Copy of this order is directed to be forwarded to the concerned local police station, to be kept on record, in case of any enquiry to be received from any Embassy for issuance of Visa in respect of defendant No.2 or Mr. Nitin Mehta, who claims to be proprietor of defendant No.1, so that the said authorities can be informed about the contents of the orders.

6. Counsel for the plaintiffs, at this stage

points out that in fact, five suits are pending against the defendant No.1 firm and in some of the matters, it is stated that the defendant No.1 is partnership firm, because cause title mentions the defendant No.1 as Partnership firm. It is not necessary to go into the said question, in view of the order already passed by me on this application.

7. This chamber summons is disposed of on the above terms.